

September 20, 2022

## The regular meeting of the Town of Chautauqua Zoning Board of Appeals

### Opening:

The regular meeting of the Town of Chautauqua Zoning Board of Appeals was called to order at 3:30 pm, on Tuesday, September 20, 2022, by Zoning Chairman, Troy Smith.

### Board Members Present:

Troy Smith, Chairman, Rick Syper, Stan Marshaus, Roberta Tenpas, & Charlie Krause

### Board Members Absent: None

**Others Present:** Ken Shearer, Jeff Paddock, Nicole Yacklon, Joel Seachrist, Richard Newell, Sandy Newell, Vincent Calimeri, Robert Mariea.

### Agenda:

#### Case No. 1:

To act on the appeal concerns of Robert Mariea to demolish dilapidated building and replace with new storage building. In a Residential Lakeside district. Property is located at 6013 Elmwood Road, Mayville, NY 14757, and is designated on the official Chautauqua County Tax map as Section 246.13, Block 3, Lot 9, which requires a Variance.

**Public Comments:** Neighbor expressed concerns about water run-off to their property.

**Board Comments:** Board has requested that owner be responsible for any water damage to neighbor's property and will be put in variance approval.

**Requirements for which Variance is Requested: Lot width and side yard setback.**

**Applicable Section(s) of Zoning Code: 143-17A & 143-17C.**

Findings and Decision were read out loud: By Chairman Troy Smith

No area variance will be granted without a consideration by the board of the following factors.

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: Response is. **NO**

Reasons: **Dilapidated storage building will be torn down and replaced with a newly constructed storage building. This will enhance the character of the neighborhood.**

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: Response is. **No**

Reason: **Due to the size of the lot any size storage building will require a variance.**

3. Whether the requested variance is substantial: Response is. **NO**

Reason: **Requested size of storage building is 768 sq. ft. This is below the allowed size of an allowed private garage and is small in size compared to most storage buildings.**

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: Response is. **NO**

Reason: **Larger storage buildings are prevalent in the immediate surrounding area, all situated on small substandard lots. This storage building will be in keeping with the physical appearance of the neighborhood. No adverse environmental conditions will be created.**

5. Whether the alleged difficulty was self-created: Response is. **Yes**

Reason: **Being requested by the owner.**

The ZBA, after taking into consideration the above five factors, finds that:

The Benefit to the Applicant DOES NOT outweigh the Detriment to the Neighborhood or Community.

Reason: **The new storage building will enhance the character of the neighborhood with the removal of the dilapidated building currently on the lot. It will also allow the applicant to store items that would normally be left outside in the yard while keeping with the physical appearance of the neighborhood.**

The ZBA further finds that a variance of, **12,356 sq. ft. lot size, 45.3' lot width, 38' front yard setback and 3' left side yard setback, .7' right side and 9.44 rear yard setback from Sections 143-17A, 143-17B, and 143-17D** of the Zoning Code is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because.

CONDITIONS: The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community, for the reasons following:

Condition No. 1:

Adverse impact to be minimized. **To keep any debris from entering Chautauqua Lake.**

Condition No. 2: **If flooding occurs on neighboring properties, applicant has agreed he will be financially responsible to fix these issues. Gutters on building must be installed and drained towards the canal side.**

Adverse impact to be minimized: **To prevent flooding on neighboring properties.**

**Motion:** Chairman Troy Smith to Approve

**Second:** Roberta Tenpas

**Vote:** Chairman, Troy Smith – Yes  
Member, Charlie Krause – Yes  
Member, Stan Marshaus – No  
Member, Rick Syper – Yes  
Member, Roberta Tenpas - Yes

**Carried:**

**Case No. 2:**

To act on the appeal of **Damon Ayer**, to construct a deck. In a Residential Lakeside district. Property is located at 6345 Wooglin Road Mayville, NY 14757, and is designated on the official Chautauqua County Tax map as Section 263.06, Block 2, Lot 44, which requires a Variance.

**Public Comments:** None

**Board Comments:** None

**Requirements for which Variance is Requested: Lot size, lot width and side yard setback.**

**Applicable Section(s) of Zoning Code: 143-17B.**

Findings and Decision were read out loud: By Chairman Troy Smith

No area variance will be granted without a consideration by the board of the following factors.

1. Whether undesirable change would be produced in character of neighborhood or a detriment to nearby properties: Response is. **NO**

Reasons: **Street is private and other homes are as close or closer than requested variance.**

2. Whether benefit sought by applicant can be achieved by a feasible alternative to the variance: Response is. **No**

Reason: **Due to the size of the lot.**

3. Whether the requested variance is substantial: Response is. **NO**

Reason: **Not for the neighborhood**

4. Would the variance have an adverse impact on the physical or environmental conditions in the neighborhood: Response is. **NO**

Reason: **Will be in character with the neighborhood.**

5. Whether the alleged difficulty was self-created: Response is. **Yes**

Reason: **Being requested by the owner.**

The ZBA, after taking into consideration the above five factors, finds that:

The Benefit to the Applicant DOES outweigh the Detriment to the Neighborhood or Community.

Reason: **Variance will be in character with the neighborhood.**

The ZBA further finds that a variance of, **40'** from Sections **143-17B.** of the Zoning Code is the minimum variance that should be granted in order to preserve and protect the character of the neighborhood and the health, safety and welfare of the community because.

**CONDITIONS:** The ZBA finds that the following conditions are necessary in order to minimize adverse impacts upon the neighborhood or community, for the reasons following:

Condition No. 1:

Adverse impact to be minimized.

Condition No. 2:

Adverse impact to be minimized:

**Motion:** Chairman Troy Smith to Approve

**Second:** Roberta Tenpas

**Vote:** Chairman, Troy Smith – Yes

Member, Charlie Krause – Yes

Member, Stan Marshaus – Yes

Member, Rick Syper – Yes

Member, Roberta Tenpas - Yes